

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION  
11

12 DAVID BECK,

13 Plaintiff,

14 v.

15 COMMISSIONER OF SOCIAL  
16 SECURITY,

17 Defendant.

Case No.: C-05-2131 PVT

**ORDER THAT CASE BE  
REASSIGNED TO DISTRICT  
COURT JUDGE, AND  
RECOMMENDATION THAT CASE  
BE DISMISSED FOR FAILURE TO  
PROSECUTE**

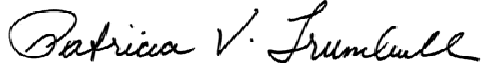
18 Plaintiff filed the Complaint in this matter on May 24, 2005. On June 2, 2005, the court  
19 granted Plaintiff's Motion for Leave to Proceed *In Forma Pauperis*. On October 17, 2005,  
20 Defendant filed an Answer to the Complaint in this matter.<sup>1</sup> Civil Local Rule 16-5 states:  
21 "Within 30 days of receipt of defendant's answer, plaintiff must file a motion for summary  
22 judgment pursuant to Civil L.R. 7-2 and FRCivP 56." On June 12, 2006, the Court issued an  
23 Order to Show Cause (the "OSC") why the case should not be dismissed for failure to prosecute  
24 based on Plaintiff's failure to file a Motion for Summary Judgment or any other documents in  
25 the case after May 24, 2005. The OSC set a deadline of June 30, 2006 for Plaintiff to file a  
26 declaration stating why this case should not be dismissed for failure to prosecute. As of the date  
27

28 <sup>1</sup> The holding of this court is limited to the facts and the particular circumstances  
underlying the present motion.

1 of this Order, Plaintiff has not filed any response to the OSC. Therefore,

2 IT IS HEREBY ORDERED that this case be reassigned to a District Court Judge<sup>2</sup> with  
3 the recommendation that the case be dismissed for failure to prosecute. *See* Fed. Rules Civ. Pro.  
4 40( b).

5 Dated: August 1, 2006

6   
7 PATRICIA V. TRUMBULL  
8 United States Magistrate Judge  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

---

27  
28 <sup>2</sup>This court is ordering reassignment to a District Court Judge because, absent consent of all parties, a Magistrate Judge does not have authority to dismiss the case.